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## REMARKS

Applicant requests favorable reconsideration of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-11 are pending, of which claims 1, 5 and 9 are independent. Claims 1, 2, 4-6 and 8-10 have been amended. Claims 12 and 13 are canceled.

The drawings stand objected to under 37 CFR 1.84(p)(5) for including a reference numeral that is not in the specification. In response, Applicant has added reference numeral "4" to the specification. The correspondence of the numeral and the part to which it refers would have been readily apparent to one of skill in the art. No new matter has been added.

The drawings also stand objected to under 37 CFR 1.83(a) because the drawings must show every feature specified in the claims. The Action indicates that "the various claimed features" must be shown or canceled from the claims. However, Applicant finds no indication as to what specific claimed features are omitted from the drawings and is not able to determine how to amend the drawings and/or claims in response. Therefore, Applicant requests that this objection be withdrawn or the features in question be identified.

The specification stands objected to under 37 CFR 1.77(b) for failing to include the proper headings. Applicant has added headings to the specification and requests withdrawal of this objection.

A new oath or declaration, identifying this application by application number and filing date, is required. Also, the Action indicates that the declaration does not acknowledge the filing of any foreign applications. In response, a new declaration, identifying this application by application number and filing date, is submitted, along with an Application Data Sheet identifying the foreign priority application.

Claims 1-13 stand objected to for allegedly being replete with phrases which lack antecedent basis. Applicant has attempted to identify and correct any such instances and request withdrawal of this objection.

Claims 1-4, 12 and 13 stand rejected under 35 USC §112, second paragraph, as allegedly being indefinite. Claim 1 has been amended to correct the typographical error that is the basis of

the rejection, and claims 12-13 have been canceled. Therefore, Applicant requests withdrawal of this rejection.

Claims 1-13 stand rejected under 35 USC §102(e) as being anticipated by US Patent No. 6,384,721 (Paielli). This rejection is respectfully traversed.

Claim 1 recites a method of monitoring the functionability of a brake lining. The method includes, *inter alia*, measuring a value that characterizes the dielectric constant of the lining material and determining the functionability when the measured value is within a specified tolerance range. Claim 9 recites a brake that includes, *inter alia*, a brake lining monitoring device. The device is constructed so that it can determine the functionability of the brake lining on the basis of a change in the dielectric constant of the brake lining material.

On the other hand, Paielli discloses providing a sensor in close proximity to, but not arranged in, the brake lining. The sensor body 22, in which conductive plates 24, 26 are embedded, is designed to wear at the same rate as the brake pad. Wear of the sensor body causes a change of capacitance between the plates. As noted in the subject application, other factors besides wear, such as contamination, can affect the dielectric constant of the lining itself.

Therefore, Paielli fails to disclose or suggest at least the features recited in claim 1 regarding measuring a value that characterizes the dielectric constant of the lining material. Similarly, Paielli fails to disclose or suggest at least the features recited in claim 9 regarding determining the functionality of the brake lining on the basis of a change in the dielectric constant of the brake lining material.

Claim 5 recites a brake lining that includes, *inter alia*, at least two conductors arranged in the lining material in a way so that the conductors can be used to perform a capacitance measurement.

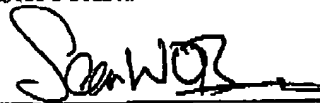
As noted, Paielli providing two conductors in the sensor body, not in the brake lining.

Therefore, Paielli fails to disclose or suggest at least the features recited in claim 5 regarding at least two conductors arranged in the lining material in a way so that the conductors can be used to perform a capacitance measurement.

Please charge any deficiencies in fees associated with filing this Amendment to our Deposit Account No. 15-0750, Order No. OT-4995.

Respectfully submitted,

Axel Pfeffer

A handwritten signature in black ink, appearing to read "Sean W. O'Brien", is written over a horizontal line.

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